THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION Nos.5337 & 5340 OF 2004

Dated: 24th January, 2006.

Between:

Bantu Laxmaiah .. Petitioner in

W.P.No.5337/04

Bantu Lingaiah .. Petitioner in

W.P.No.5340/04

And

1. The District Collector, Nalgonda,
   Nalgonda District.
2. The Joint Collector, Nalgonda,
   Nalgonda District.
3. The Revenue Divisional Officer, Miryalaguda,
   Nalgonda District. … Respondents in
   W.P.No.5337/04 &
   W.P.No.5340/04

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WRIT PETITION Nos.5337 & 5340 OF 2004

COMMON ORDER :

Since common questions of fact and law arise for consideration, these two writ petitions are heard together and decided by this common order.

The writ petitioners are appointed as fair price shop dealers 2 and 1 respectively of Yadgarpally village, Miryalaguda Mandal, Nalgonda District. While they were continuing as such, the 3rd respondent – Revenue Divisional Officer vide proceedings 23-12-2002 cancelled their authorizations on the ground that the petitioners had indulged in certain irregularities in distribution of the essential commodities to the cardholders. It is not in dispute that the petitioners were issued notices dated 30-12-2002 calling upon them to show-cause as to why their authorizations should not be cancelled on the ground of the charges specified thereunder. The petitioners had submitted their explanations dated 06-01-2003, however the Revenue Divisional Officer, Miryalaguda by identical orders dated 21-06-2003 cancelled their authorizations with immediate effect. Aggrieved by the same, the petitioners preferred appeals before the 2nd respondent – Joint Collector, Nalgonda, which were dismissed by identical orders dated 19-02-2003. The revisions filed by the petitioners before the 1st respondent – District Collector, Nalgonda also ended in dismissal. Hence, these two writ petitions.

I have heard the learned Counsel for the petitioners in both the writ petitions and the learned Government Pleader appearing for the respondents.

A mere reading of the orders passed by the 3rd respondent - Revenue Divisional Officer, dated 21-06-2003 shows that though the Revenue Divisional Officer framed charges and also issued show-cause notices calling upon the petitioners to explain the charges, and though the petitioners submitted detailed explanations, the Revenue Divisional Officer failed to record any finding in respect of any of the charges framed against the petitioners.

On the other hand, it appears that the 3rd respondent - Revenue Divisional Officer conducted an open enquiry in the village on 20-06-2003 during which he recorded the statements of the complainant and other village elders and on the basis of the said enquiry it was concluded that the fair price shop dealers (petitioners herein) had not distributed the rice to the cardholders and that they were also collecting higher

rates. Thus, it was held that the petitioners had contravened the provisions of the A.P. State Public Distribution Control Order, 2001.

Having framed the charges and having called for the explanations from the petitioners, the third respondent – Revenue Divisional Officer ought to have recorded his finding on each of the charges farmed and ultimately if it is found that the allegations are established, it is open to the third respondent – Revenue Divisional Officer to cancel the authorization. However, without recording any such finding and particularly without taking into consideration the explanations offered by the petitioners, the third respondent ought not to have arrived at a conclusion that the charges are proved merely on the basis of the enquiries said to have been made by him in the open enquiry conducted in the village behind the back of the petitioners. The said procedure adopted by the third respondent being arbitrary, illegal and in violation of the principles of natural justice, on that ground alone, the orders of cancellation are liable to be set aside. Strangely, the 2nd respondent who is the appellate authority and the 1st respondent who is the revisional authority failed to consider the said aspect and confirmed the orders of cancellation mechanically without application of mind to the material on record.

In the circumstances, the order of the 3rd respondent dated 23-12-2002 as confirmed by the respondents 1 and 2 in the Appeal and Revision are set aside and the Writ Petitions are disposed of with a direction to the 3rd respondent to consider the matter afresh and pass appropriate orders in accordance with law as expeditiously as possible preferably within a period of four weeks from the date of receipt of this order.

The learned Counsel for the petitioners represents that so far no permanent appointment has been made in respect of the shops in question and in-charge dealers are being continued. If that be so, the same arrangement shall be continued till appropriate orders are passed by the 3rd respondent – Revenue Divisional Officer in accordance with law.

Both the Writ Petitions are accordingly disposed of. No costs.

G. ROHINI, J.

Dt. 24-01-2006

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